Minutes of October 23, 2013, meeting of the Marcellus Shale Safe Drilling Initiative Advisory Commission

Approved November 20, 2013.

The Commission held its 22st meeting at Allegany College on October 23, 2013 at 10:00 am. In attendance were Chairman David Vanko and Commission members Senator George Edwards, Commissioner James Raley, Commissioner William Valentine, Mayor Peggy Jamison, Shawn Bender, Jeff Kupfer, Paul Roberts, Nicholas Weber and Harry Weiss. Also in attendance were staff of state agencies and members of the public.

Minutes of the September 25, 2013 minutes were approved without change.

John Clementson, Assistant Chief Engineer at the Maryland Public Service Commission, gave a presentation on the regulation of natural gas pipelines. He described the roles and responsibility of the Federal Energy Regulatory Commission (FERC), the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Maryland Public Service Commission for setting standards, inspections and enforcement. He explained that the pipeline safety regulations address materials; pipe and component design; joining of materials; construction; customer meters, service regulations and service lines; test requirements; uprating; operations, maintenance; qualification of pipeline personnel; and integrity management. The regulations do not address noise, which is generally regulated through state standards.

In response to questions from the Commissioners and from the public, he said:

- There are two classes of gathering lines, based on their materials and operating pressures; however, neither is regulated by the federal government in Class 1 areas, which are located either offshore or in a rural area where there are 10 or fewer buildings intended for human occupancy within 220 yards on either side of the centerline of any continuous one mile segment of pipeline. If more residential buildings are constructed, the line may be reclassified. If the classification of the area changes, the pipes do not have to be upgraded, but the operation and maintenance must conform to the regulations for the new classification.

- The National Association of State Energy Officials has advocated bringing all gathering lines under regulation. PHMSA has issued a notice of advanced rulemaking and is considering whether to adopt additional regulations for gathering lines, but these regulations are probably at least 3 years off.

- In general, when new regulations are adopted for pipelines, companies do not have to retrofit their existing pipelines,

- If leaks occur on a transmission line, valves can be closed to isolate the leak. There is a minimum spacing requirement for valves on transmission lines, but these do not have to be fitted with remote controls.

- Except for room required for maintenance and function, there are no restrictions on locating gas lines in existing utility rights of way or along roads. Stray electrical current can cause pipes to corrode.

- The 2013 General Assembly required the PSC to evaluate, by December 1, 2013, whether it is in the public interest to apply for certification to perform inspections on interstate pipelines in Maryland, and report back to the General Assembly
- Compressor stations on interstate pipelines are regulated by FERC, while the PSC has jurisdictions over compressor stations on intrastate pipelines.
- New lines must be pressure tested before being put into service
- Leak surveys are required annually on transmission lines.
- Leaks are classified according to degree of hazard; leaks posing major hazards must be addressed immediately, while very small leaks may not be repaired.
- Methane is odorless, but an odorant is added when the gas leaves the transmission system and enters the distribution system, a point referred to as a City Gate Station. Gas in gathering lines would not have odorant.
- Given enough time, pipes will leak, but modern pipe materials, coatings, better welding standards, and corrosion protection have greatly reduced the incidence of leaks. If sections of plastic pipe are properly fused, the joints are better than welded steel pipes.
- Most leakage incidents are caused by accidents, such as a backhoe hitting the pipeline, not by manufacturing defects or operations.
- When agencies respond to incidents, there is a review of the records to see if there is a pattern or recurring problem.
- He recalled fewer than five incidents in Maryland in the past year, and all were in the distribution system.
- The State could not establish requirements for construction or inspection of interstate pipelines, because FERC has exclusive jurisdiction. Maryland could impose rules for intrastate pipelines, provided they are at least as stringent as the federal regulations. If MDE wished to propose such rules, the PSC would like to be involved.
- All underground lines must be registered with the One Call Center (Miss Utility).
- If someone detects gas in a building, s/he should leave the building and call 911.
- If someone suspects a fugitive leak of gas, s/he could call 911, the local fire department, or the County Environmental Health office.

Ms. Kenney provided an update on the formulation of development scenarios for the economic study. Several helpful comments had been received, and as a result, the scenarios have been revised. A handout was provided with the new scenarios. Any comments on the new scenarios must be received by close of business on Friday, October 25. Refracking has not been included in the scenarios because there is too little experience to determine whether and how often Marcellus wells would be refractured. It was suggested that, once the model is developed, the cost of running the model in the future would be modest. This might be a way to validate or refine the scenarios.

Ms. Kenney also gave a brief summary of an October 4 conference call among state agencies and the counties about performance zoning in the absence of county-wide zoning. This conference had been requested by the Commission at the September meeting. There was disagreement over whether Garrett County had exercised sufficient planning and zoning authority that it could enact performance zoning for a specific industry. It was noted that the most recent attempt to develop comprehensive zoning in Garrett County resulted in a stalemate. If performance standards were enacted, they should apply to all uses and allow uses that, in the aggregate, do not create a particular hazard.

Everyone on the call agreed that the State legislature could adopt virtually any kind of conventional (Euclidean) zoning or performance zoning for all or part of Garrett County, subject only to constitutional constraints such as Equal Protection of the Law or limitations on the delegation to individual landowners of the power to zone. Senator Edwards noted that the legislature would be unlikely to adopt such a law unless there was strong local support. Commissioner Weiss noted that similar bills had been introduced in Pennsylvania but failed to pass.

Performance standards would not excuse compliance with any of the location restrictions and setbacks imposed on gas wells by the State, and care should be taken to avoid unintended environmental degradation. In discussions relating to a performance standard that would limit the area covered by well pads to a maximum of 2 percent of the area of a watershed, Christine Conn pointed out that the threshold of 2 percent impervious surface is an ecological threshold that is applicable only to high-value watersheds. Moreover, it is a cumulative threshold and it should not be applied to impervious surface related only to a single industry.

The next agenda item was a discussion of the risk assessment. As explained at the September meeting, the top risk pathways identified in a study by Resources for the Future (RFF) would be the starting point for the list of risks to be analyzed for our risk assessment. The Commissioners and the public could suggest additional risk pathways or suggest deleting pathways. Dr. Conn and Ms. Kenney projected the RFF risks and solicited suggestions. These were added to the list. The Commissioners and the public were encouraged to send any additional ideas to staff for inclusion in the list.

The public was then invited to comment.

- Eric Robison asked that a replacement be named for John Fritts, who had resigned from the Commission. It was explained that the Secretaries had written a letter to Mr. Fritts thanking him for his service, but that the Secretaries had decided that it was not necessary to name a replacement.
- John Quilty asked that more information about the economic study be posted on MDE's website. Ms. Kenney agreed to do that.

The meeting adjourned about 1:30.